RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL SERVICES

CHAPTER 1240-3-2
COVERAGE GROUPS UNDER MEDICAID

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1240-3-2-.01 NECESSITY AND FUNCTION. The Department of Human Services has responsibility to determine eligibility for medical assistance in accordance with Title XIX of the Social Security Act. *TCA §§14-23-102* and *14-23-104* empower the Department to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance in Tennessee. Federal Regulations set forth the mandatory and optional groups of the Medicaid Program (42 CFR 435.100, 435.200 and 435.300).

Authority: *T.C.A. §§14-722 and 14-1911.* ***Administrative History:*** *Original rule filed June 14, 1976; effective July 14, 1976. Amendment filed June 9, 1981; effective October 5, 1981. Amendment filed August 17, 1982; effective September 16, 1982.*

1240-3-2-.02 COVERAGE OF THE CATEGORICALLY NEEDY. The following groups of categorically needy individuals, if otherwise eligible, are covered:

(1) Recipients Of Cash Assistance (Money Payments).

(a) All individuals receiving cash assistance under the Families First/AFDC program (Title IV-A). For purposes of this rule Families First/AFDC recipients include Families First/AFDC children for whom a foster care board payment is made, and individuals deemed eligible for Families First/AFDC but who are not receiving cash payments. Deemed recipients include:

1. Families First/AFDC recipients eligible for a money payment of less than $10.00.

2. A pregnant woman who would be eligible for Families First/AFDC if the child were born and living with her.

3. A newborn infant may remain eligible for Medicaid for a period of up to one year on the following conditions:

(i) The mother was eligible for Medicaid at the time the infant was born;

(ii) The mother would be eligible for Medicaid if she were still pregnant; and

(iii) The child remains in the same household as the mother.

(b) All individuals receiving a benefit under Title XVI, Supplemental Security Income Program.

(c) All individuals receiving a State Supplemental payment.

(2) Medicaid Only (Non-Money Payment).

(a) An active Families First/AFDC case terminated for a money payment for any reason other than death of all Aid Group (AG) members or moving out of state will continue eligible for Medicaid

(Rule 1240-3-2-.02, continued)

Only for eighteen (18) calendar months beginning with the month in which the family becomes ineligible for assistance except for the caretaker who is sanctioned for failure to comply with child support services.

(b) Any person or family who would be eligible for Families First/AFDC or SSI except for a requirement which is specially prohibited under Title XIX of the Social Security Act.

(c) Any Social Security beneficiary who would be currently eligible for Families First/AFDC or SSI if the Social Security increase in September, 1972, was disregarded, provided:

1. He received OAA, AB, AD, or AFDC in August 1972; and

2. Was also entitled to Social Security monthly benefits for August 1972.

(d) All aged, blind or disabled individuals in skilled or intermediate care as patients in the month of December 1973, who:

1. Would have received an OAA, AB, or AD money payment had they not been in skilled or intermediate care; and

2. Were certified for Medicaid Only on the basis of need for skilled or intermediate care; and

3. Continue to be eligible for Medicaid coverage because they:

(i) Continue to be patients in skilled or intermediate care facilities;

(ii) Continue to require skilled or intermediate care; and

(iii) Continue to meet all requirements as an OAA, AB, or AD Medicaid Only care according to policy in effect in December 1973, as contained in Volume II of the Public Welfare Manual.

(e) Any aged, blind, or disabled individual who loses eligibility for Supplemental Security Income (SSI) benefits due to a Social Security (Title II) cost of living increase beginning in July 1977, but who would be eligible for SSI if cost of living adjustments received since their SSI termination were disregarded.

(f) Any aged, blind, or disabled individual institutionalized in a medical institution (i.e., one organized to provide medical care or in Home and Community Based Services under a waiver pursuant to 1915(c) of the Social Security Act) who has income equal to or less than 300% of the SSI Federal Benefit Rate and who meet all applicable technical and financial eligibility criteria.

(g) Individuals who would be eligible for cash assistance (Families First/AFDC or SSI) except for their institutional status.

(h) Pregnant women who meet the income and resource standards of the Families First/AFDC cash assistance program. If eligible for and receiving Medicaid on the date of delivery, eligibility automatically continues for two full calendar months, beginning with the month following the month of delivery.

(i) A newborn infant may remain eligible for medicaid for a period of up to one year on the following conditions:

1. The mother was eligible for medicaid at the time the infant was born;

2. The mother would be eligible for medicaid if she were still pregnant; and

3. The child remains in the same household as the mother.

(j) Caretakers and their deprived children to age 21 when income from a sibling(s) (including half or step sibling) causes ineligibility for money payment.

(k) Pregnant women and infants up to one year old who meet the income standards based on 185% of the federal poverty guidelines for the family size. If an application is made no later than delivery date and the pregnant woman is eligible at any time during the application processing period eligibility continues without regard to income changes throughout the pregnancy. Eligibility continues for the pregnant women two full calendar months after the month pregnancy ends regardless of changes in the pregnant woman's eligibility status. A woman eligible under this subparagraph will receive full coverage in addition to pregnancy-related services. For purposes of this subparagraph, "pregnancy-related services" may mean any service eligible for coverage under the Medicaid program that potentially affects the pregnancy.

(l) Children age six or older who were born on or after October 1, 1983, whose family income does not exceed 100% of the Federal poverty guidelines and who meet all eligibility requirements.

(m) Any aged, blind, or disabled individual who loses eligibility for Supplemental Security Income (SSI) benefits due to any increase in income other than a Social Security (Title II) cost-of-living increase beginning in July 1977, but who would be eligible for SSI if cost of living adjustments received since their SSI termination were disregarded. (Commonly known as the Pickle Amendment.)

(n) Effective January 1, 1998, individuals who meet eligibility requirements for Special Low Income Beneficiaries (SLIB) except that income is greater than one hundred twenty percent (120%) of federal poverty guidelines, but not greater than one hundred thirty five percent (135%) may be eligible for state buy-in of Part B Medicare premiums, if not currently eligible for or receiving Medicaid or TennCare on "first come, first served" basis up to the State's allocation of federal funds. This group is referred to as Qualifying Individuals 1 (QI1). QI2s are individuals whose incomes are over one hundred thirty five percent (135%) but not over one hundred seventy five percent (175%) of federal poverty guidelines who may have a portion of their Part B Medicare premium refunded due to the shift of some of the home health benefits from Part A to Part B. The amount of this benefit in 1998 was one dollar, seven cents ($1.07) per month. This is equivalent to one-seventh (1/7) of the cost of the home health shift. The amount will increase by an additional one seventh (1/7) in each of the following years.

(o) Individuals under age 21 (or to age 22 if completing a course of treatment begun prior to the 21st birthday) receiving inpatient psychiatric care in a facility accredited by the Joint Commission for Accreditation of Hospitals.

(p) Legal aliens and immigrants who are not age 65 or older, blind, disabled, or under age 18; undocumented aliens, and other aliens who do not have permanent resident status including illegal aliens as specified under the Immigration Reform and Control Act of 1986 (IRCA), if otherwise eligible, may qualify for emergency medical services where the individual has a medical condition, including emergency labor and delivery; manifested by acute symptoms of sufficient severity which if not attended to immediately could reasonably be expected to result in placing the patient's health in serious jeopardy, severe impairment to bodily functions or serious dysfunction of any bodily organ or part.

(q) Pregnant women who meet the applicable income levels for the categorically needy (i.e., those whose total income does not exceed 185% of the Federal poverty guidelines and who are determined eligible by a qualified provider for a presumptive eligibility period in accordance with Section 1920 of the Social Security Act) are eligible for ambulatory prenatal services. Only one presumptive period of eligibility is allowed for each pregnancy.

(r) Qualified Medicare Beneficiaries who are entitled to Medicare Part A may be eligible for a State buy-in of their Medicare premiums, coinsurance and deductibles, if their resources do not exceed 200% of the SSI resource limit for an individual or couple and whose incomes do not exceed 100% of the Federal poverty guidelines effective January 1990.

(s) Qualified Disabled and Working Individuals who have not attained the age of 65, who would not otherwise be eligible for Medicare, who continue to meet the Social Security Administration's definition of disability or blindness (Title II), and whose entitlement to disability benefits ended solely because such individual's earnings exceeded the substantial gainful activity amount are eligible for a state buy-in of their Medicare Part A premiums, effective July 1, 1990 forward, provided such individual's income does not exceed 200% of the federal poverty guidelines applicable to a family of the size involved, provided such individual's resources do not exceed twice the maximum amount of resources that an individual or a couple may have under the SSI program and provided that the individual is not otherwise eligible for Medicaid.

(t) Children born on or after October 1, 1983, who have obtained the age of one year old but who have not obtained the age of six years old where family income does not exceed 133% of the Federal poverty guidelines and who meet all eligibility requirements.

(u) Special Low Income Medicare Beneficiaries (SLIMB) who meet all of the requirements for Qualified Medicare Beneficiaries (QMB) but whose incomes are greater than one hundred percent (100%) of the federal poverty guidelines but not greater than one hundred twenty percent (120%) effective January, 1995 of the federal poverty guidelines may be eligible for state payment of their Part B (medical insurance) Medicare premiums.

(v) Disabled Widows and Widowers.

1. Any disabled widows or widowers who are between the ages of 50 and 59 and were entitled to Title II widow and widowers Social Security Benefits during December 1983 and lost their Supplemental Security Income (SSI) benefits under Title XVI as a result of elimination of the actuarial reduction factor in January 1984 but who would have continued SSI eligibility if the Social Security increase, which arose from the elimination of the actuarial reduction factor and all subsequent Cost of Living Adjustments (COLA), is disregarded provided that application for this benefit was made no later than July 1, 1987.

2. Any disabled widow or widower who lost eligibility for SSI benefits because of receiving at age 60 a spouse's retirement benefit under Title II may remain eligible for Medicaid on the following conditions:

(i) They are not entitled to Medicare Part A coverage; and

(ii) They would be eligible for SSI if cost of living adjustments and the spouse's retirement benefits were disregarded.

3. Any disabled widow(er) or disabled divorced surviving spouse who lost SSI eligibility due to a receipt of Title II benefits which were received pursuant to 1990 changes in

(Rule 1240-3-2-.02, continued)

disability criteria of 42 USC §423 may remain eligible for Medicaid on the following conditions:

(i) They are not entitled to Medicare Part A coverage; and

(ii) They would continue to be eligible for SSI if the Title II benefit was not counted as income.

(w) Disabled adult children who lose SSI eligibility after July 1, 1987 because of the receipt of or an increase in benefits for Disabled Adult Children under Title II will remain eligible for Medicaid if the initial entitlement under Title II above and/or cost of living increase, whichever caused the ineligibility for SSI, were disregarded.

(3) Children Under 21 In Special Living Arrangements.

(a) Children in foster care or a subsidized adoptive home;

(b) Children under the supervision of the Department, or approved public child care agency (if the Department is providing some portion of the child's cost of care), or a licensed private, non-profit child-care or child planning agency; and

(c) Who are in need according to the Families First/AFDC-FC Income and Resource Standards.

Authority: *T.C.A. §§4-5-202, 71-1-105(12), 71-3-154(h)(2)(D) and (4), 71-3-163, 71-5-106, 42 USC §1396, 1902(a)10(A)(i)(1V), and 1902 (a)(10)(E); 42 USC §§423 note; 1396a(a)(10); 1396a(e)(4),(5), and (6); 1396a(l)(1)(D), 1396r; PL 94-566 §503; PL 98-21 §134; PL 99-509 §9401; PL 100-203 §9116; PL 101-508 §5103(e), and 42 C.F.R. §435.831.* ***Administrative History:*** *Original rule filed June 14, 1976. Amendment filed September 15, 1977; effective October 14, 1977. Amendment filed June 9, 1981; effective October 5, 1981. Amendment filed November 30, 1981; effective January 14, 1982. Repeal and new rule filed August 17, 1982; effective September 16, 1982. Amendment filed October 14, 1983; effective November 14, 1983. Amendment filed January 7, 1985; effective February 6, 1985. Amendment filed May 23, 1986; effective August 12, 1986. Amendment filed August 9, 1989; effective September 13, 1989. Amendment filed January 31, 1990; effective March 17, 1990. Amendment filed May 1, 1991; effective June 15, 1991. Amendment filed December 30, 1993; effective March 15, 1994. Amendment filed April 23, 1997; effective July 7, 1997. Amendment filed October 26, 2001; effective January 9, 2002.*

1240-3-2-.03 COVERAGE OF THE MEDICALLY NEEDY. The following groups of medically needy individuals, if otherwise eligible, are covered:

(1) Pregnant women in one or two-parent families who, but for income and resources, would be eligible as Categorically Needy (Families First/AFDC) and who meet the Medically Needy financial requirements shall remain eligible without regard to income changes and for two full calendar months of postpartum coverage regardless of changes in circumstances.

(2) Aged, blind and disabled individuals over twenty-one (21) years of age who meet the Medically Needy financial requirements.

(3) Children under Age 21, Caretaker.

(a) All children under age 21 who meet the Medically Needy technical and financial eligibility requirements. The caretaker of such children is also covered if:

1. The child is deprived of parental support and/or care due to the death, incapacity, unemployment of primary wage earner or absence of one or both parents; or

(Rule 1240-3-2-.03, continued)

2. The caretaker is pregnant; or

3. The caretaker is under age 21.

(b) Both parents of a dependent child may be covered, if otherwise eligible, when one of the parents is incapacitated or meets unemployment criteria. A step-parent in the home may be covered if the parent of the dependent child is incapacitated.

(c) Newborns of women in one or two-parent families are covered effective from date of birth and continue as long as the child is living with the mother and the mother is Medicaid eligible or if she would be Medicaid eligible, if she were pregnant, up to one year.

(4) Individuals or families are classified as Exceptional Medically Needy or Spend-down Medically Needy. Persons are exceptional Medically Needy if eligibility is due to their regular monthly income being equal to or below the medically needy eligibility standards.

(5) Whenever a person or family has income which prevents their qualifying as Exceptional Medically Needy eligibility on the basis of income, spend-down eligibility is determined on a monthly basis.

Authority: *T.C.A. §§4-5-202, 71-1-105(12), and 71-5-106; 42 CFR Section 435.210 and 42 USC §1396(a)(10)(A)(ii); PL 100-485 §401; 42 USC §1396a(e)(4) and (1)(1); and 42 CFR §435.831.* ***Administrative History:*** *Original rule filed June 14, 1976; effective July 14, 1976. Amendment filed September 15, 1977; effective October 14, 1977. Amendment filed June 9, 1981; effective October 15, 1981. Repeal and new rule filed August 17, 1982; effective September 16, 1982. Amendment filed January 7, 1985; effective February 6, 1985. Amendment filed February 26, 1985; effective March 28, 1985. Amendment filed September 19, 1985; effective December 14, 1985. Amendment filed May 23, 1986; effective August 12, 1986. Amendment filed May 23, 1988; effective August 29, 1988. Amendment filed August 9, 1989; effective September 23, 1989. Amendment filed January 31, 1990; effective March 17, 1990. Amendment filed August 17, 1992; effective October 8, 1992. Amendment filed December 30, 1993; effective March 15, 1994. Amendment filed April 23, 1997; effective July 7, 1997. Amendment filed October 26, 2001; effective January 9, 2002.*

1240-3-2-.04 REPEALED.

Authority: *T.C.A. §§14-722, 14-1911, 14-23-117, and 42 CFR 435.064.* ***Administrative History:*** *Original rule filed June 17, 1976; effective July 14, 1976. Amendment filed June 9, 1981; effective October 5, 1981. Amendment filed November 30, 1981; effective January 14, 1982. Repeal filed August 17, 1982; effective September 16, 1982.*